REMARKS

This application has been reviewed in light of the Office Action dated June 19, 2002. Claims 1-14 are presented for examination. Claims 1, 13, and 14, the only claims in independent form, have been amended to define more clearly what Applicant regards as his invention. Favorable reconsideration is requested.

The Office Action rejected Claims 1, 2, 8-10, 13, and 14 under 35 U.S.C. § 103(a)[1] as being unpatentable over U.S. Patent No. 5,889,921 (Sugiyama et al.) in view of U.S. Patent No. 5,893,062 (Bhadkamkar et al.). Claim 3 stands rejected under § 103(a) as being unpatentable over Sugiyama et al. in view of Bhadkamkar et al., and further in view of U.S. Patent No. 5,784,112 (Ogasawara et al.). Claims 4-7, 11, and 12 stand rejected under § 103(a) as being unpatentable over Sugiyama et al. in view of Bhadkamkar et al., and further in view of U.S. Patent No. 5,375,068 (Palmer et al.).

Applicant respectfully traverses the rejections, and submits that independent Claims 1, 13, and 14, together with the claims dependent thereon, are patentably distinct from the cited prior art for at least the following reasons.

The aspect of the present invention set forth in Claim 1 is directed to a communication apparatus that performs data communication via a communication network. The apparatus includes a packet transmitter, a detector, and a controller. The packet transmitter transmits image data in packets and selectively transmits sound data in packets. The sound data

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1 The Office Action indicates that the rejections are under "35 U.S.C. 102(e)." However, in view of the fact that the rejections are based on a combination of references, the rejections have been treated herein as being under 35 U.S.C. § 103(a).

is divided into packets of invariable packet size and the image data is divided into packets of variable packet size based on the size of each sound data packet. The detector detects an amount of sound data to be transmitted in packets, and the controller controls the variable packet size of the packets of image data to be transmitted by the packet transmitter, according to a detection result of the detector.

Sugiyama et al., as understood by Applicant, relates to an audio/video recording and reproducing apparatus. Apparently, Sugiyama et al. teaches that the apparatus encodes a video signal and an audio signal at variable reduction rates. A controller controls the reduction rates such that the sum of the amount of video information and the amount of audio information is maintained constant.

Bhadkamkar et al., as understood by Applicant, relates to a system that enables the apparent display rate of an audio-visual display to be varied. Apparently, Bhadkamkar et al. teaches that an original set of audio data is modified in accordance with a target display rate, then an original set of video data is modified to conform to the modifications made to the audio data set, such that the modified audio and video data sets are synchronized.

Applicant submits that a combination of Sugiyama et al. and Bhadkamkar et al., assuming such combination would even be permissible, would fail to teach or suggest a network communication apparatus that includes "a packet transmitter for transmitting image data in packets and for selectively transmitting sound data in packets, wherein the sound data is divided into packets of invariable packet size and the image data is divided into packets of variable packet size based on the size of each sound data packet," are recited in Claim 1.

The Office Action states that Sugiyama et al. does not disclose that image data is divided into packets of variable packet size based on the size of each sound packet, but asserts that Bhadkamkar et al., at column 24, lines 35-64, discloses such a feature. However, Applicant understands Bhadkamkar et al. to teach that original audio data is modified based on a target display rate. Therefore, the audio data is not necessarily of *invariable* packet size, because the audio data is modified according to the target display rate.

In fact, Bhadkamkar et al. states that "since an audio sample cannot be subdivided, the number of audio samples in each audio segment can be rounded up to the next highest integer or truncated to the next lowest integer, so that on average, each audio segment includes the calculated number of audio samples per video frame. *Thus, in this example, each set of three audio segments includes one segment having 266 audio samples and two segments having 267 audio samples, arranged in any desired order.*" (Emphasis added. See column 9, lines 2-10.) Therefore, Bhadkamkar et al. is understood to teach away from dividing sound data into packets of *invariable* packet size, because Bhadkamkar et al. teaches that audio data is divided into audio segments of unequal (i.e., variable) size.

Further, neither Sugiyama et al. nor Bhadkamkar et al. relate to *packet transmission* of audio-visual data. Instead, the cited references are understood to disclose stand-alone systems, and nothing has been found in either reference that would suggest to one of ordinary skill in the relevant art to modify the disclosed systems to perform packet data communication via a communication network, as claimed in Claim 1.

Accordingly, Applicant submits that Claim 1 is patentable over the cited art,

and respectfully requests withdrawal of the rejection under 35 U.S.C. § 103(a). Independent Claims 13 and 14 are method and recording medium claims corresponding to Claim 1, and are believed to be patentable for at least the same reasons as discussed above.

The other rejected claims in this application depend from Claim 1 and, therefore, are submitted to be patentable for at least the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, individual reconsideration of the patentability of each claim on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicant respectfully requests favorable reconsideration and early passage to issue of the present application.

Applicant's undersigned attorney may be reached in our New York Office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address listed below.

Respectfully submitted,

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VERSION WITH MARKINGS TO SHOW CHANGES MADE TO CLAIMS

1. (Thrice Amended) A communication apparatus that performs data communication via a communication network, said apparatus comprising:

a packet transmitter for transmitting image data in packets and for selectively transmitting sound data in packets, wherein the sound data is divided into packets of invariable packet size and the image data is divided into packets of variable packet size based on the size of each sound data packet;

a detector for detecting an amount of sound data to be transmitted in packets; and

a controller for controlling the variable packet size of the packets of image data to be transmitted by said packet transmitter, according to a detection result of said detector.

13. (Thrice Amended) A communication method of a communication apparatus that performs data communication via a communication network, said method comprising:

a packet transmission step of transmitting image data in packets and of selectively transmitting sound data in packets, wherein the sound data is divided into packets of invariable packet size and the image data is divided into packets of variable packet size based on the size of each sound data packet;

a detection step of detecting an amount of sound data to be transmitted in packets; and

a control step of controlling the variable packet size of the packets of image data

to be transmitted in said packet transmission step, according to a detection result of said detection step.

14. (Thrice Amended) A computer-readable recording medium storing a program for a communication method of a communication apparatus that performs data communication via a communication network, the program comprising:

program code for a packet transmission step of transmitting image data in packets and of selectively transmitting sound data in packets, wherein the sound data is divided into packets of invariable packet size and the image data is divided into packets of variable packet size based on the size of each sound data packet;

program code for a detection step of detecting an amount of sound data to be transmitted in packets; and

program code for a control step of controlling the variable packet size of the packets of image data to be transmitted in the packet transmission step, according to a detection result of the detection step.

2662

In re Application of: SHUICHI OKAMURA

Docket No. 03560.002163

Application No.: 09/057,556

Examiner: S. Tsegaye

Filed: April 9, 1998

Group Art Unit: 2662

For: IMAGE COMMUNICATION APPARATUS, IMAGE COMMUNICATION METHOD, AND RECORDING MEDIUM WHICH STORES THE METHOD

Date: October 18, 2002

COMMISSIONER FOR PATENTS
Washington, D.C. 20231

Sir:

Transmitted herewith is an Amendment in the above-identified application.

[X] No additional fee is required.

The fee has been calculated as shown below

CLAIMS AS AMENDED						
	(2) CLAIMS REMAINING AFTER AMENDMENT		(4) HIGHEST NO. PREVIOUSLY PAID FOR	(5) PRESENT EXTRA	RATE	ADDITIONAL FEE
TOTAL CLAIMS	* 14	MINUS	** 20	= 0	x $9 $18	0
INDEP. CLAIMS	* 3	MINUS	*** 3	= 0	x $42 $84	0
Fee for Multiple Dependent claims $140°/$280						0
			TOTAL ADDITIONAL FEE FOR THIS AMENDMENT---			0

* If the entry in Column 2 is less than the entry in Column 4, write "0" in Column 5.
** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, write "20" in this space.
*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, write "3" in this space.

[ ] °Verified Statement claiming small entity status is enclosed, if not filed previously.

☐ A check in the amount of $_____ is enclosed.

☐ Charge $_____ to Deposit Account No. 06-1205. A duplicate copy of this sheet is enclosed.

☒ Any prior general authorization to charge an issue fee under 37 C.F.R. 1.18 to Deposit Account No. 06-1205 is hereby revoked. The Commissioner is hereby authorized to charge any additional fees under 37 C.F.R. 1.16 and 1.17 which may be required during the entire pendency of this application, or to credit any overpayment, to Deposit Account No. 06-1205. A duplicate copy of this paper is enclosed.

☒ A check in the amount of $110.00 to cover the fee for a one-month extension is enclosed.

☐ A check in the amount of $_____ to cover the Information Disclosure Statement fee is enclosed.

☐ Applicant's undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

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